

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE**

FLOYD J. TUCKER,)	
)	Case No. 2:24-cv-199
<i>Plaintiff,</i>)	
)	Judge Travis R. McDonough
v.)	
)	Magistrate Judge Cynthia R. Wyrick
SOUTHERN HEALTH PARTNERS and)	
NURSE PRACTITIONER,)	
)	
<i>Defendants.</i>		

MEMORANDUM OPINION

On November 21, 2024, the Court entered a Memorandum and Order finding Plaintiff’s pro se prisoner’s complaint failed to state a claim (Doc. 5). Rather than dismissing the action at that time, the Court provided Plaintiff with fourteen (14) days within which to file an amended complaint. (*Id.* at 5, 6.) The Order cautioned Plaintiff that “if he does not file an amended complaint by the deadline, the Court will **DISMISS** his complaint for failure to prosecute and comply with an order of the Court, and for failure to state a claim upon which relief may be granted.” (*Id.* at 6.) The deadline has passed, and Plaintiff has not complied with the Order or otherwise communicated with the Court.

Under Federal Rule of Civil Procedure 41(b), the Court may dismiss a case for a failure of the plaintiff “to prosecute or to comply with these rules or a court order.” Fed. R. Civ. P. 41(b); *see also Knoll v. Am. Tel. & Tel. Co.*, 176 F.3d 359, 362–63 (6th Cir. 1999); *see also Rogers v. City of Warren*, 302 F. App’x 371, 375 n.4 (6th Cir. 2008) (“Although Rule 41(b) does not expressly provide for a sua sponte dismissal (the rule actually provides for dismissal on defendant’s motion), it is well-settled that the district court can enter a sue sponte order of

dismissal under Rule 41(b).” (citing *Link v. Wabash R.R.*, 370 U.S. 626, 630 (1962))). The Court examines four factors when considering dismissal under Fed. R. Civ. P. 41(b):

(1) whether the party’s failure is due to willfulness, bad faith, or fault; (2) whether the adversary was prejudiced by the dismissed party’s conduct; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and (4) whether less drastic sanctions were imposed or considered before dismissal was ordered.

Wu v. T.W. Wang, Inc., 420 F.3d 641, 643 (6th Cir. 2005).

First, Plaintiff’s failure to timely comply with the Court’s Order was due to Plaintiff’s willfulness or fault. Plaintiff has chosen not to comply with, or even respond to, the Court’s Order. Second, the Court finds that Plaintiff’s failure to comply with the Court’s Order has not resulted in any prejudice to Defendants, as they have not yet appeared. Third, the Court’s Order expressly warned Plaintiff that failure to timely comply with the Order would result in the dismissal of this action (Doc. 5, at 6). And finally, the Court concludes that alternative sanctions are not warranted, as Plaintiff’s initial complaint failed to state a claim, and he has failed to attempt to remedy the deficiencies in his pleading by filing an amended complaint. On balance, these factors support dismissal of this action under Rule 41(b).

Moreover, “while *pro se* litigants may be entitled to some latitude when dealing with sophisticated legal issues, acknowledging their lack of formal training, there is no cause for extending this margin to straightforward procedural requirements that a layperson can comprehend as easily as a lawyer.” *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). Plaintiff’s *pro se* status did not prevent him from complying with the Court’s Order, and Plaintiff’s *pro se* status does not mitigate the balancing of factors under Rule 41(b).

The Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a).

AN APPROPRIATE JUDGMENT ORDER WILL ENTER.

/s/ Travis R. McDonough

**TRAVIS R. MCDONOUGH
UNITED STATES DISTRICT JUDGE**